

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GEORGIA PACIFIC CONSUMER)
PRODUCTS LP, FORT JAMES)
CORPORATION, and)
GEORGIA-PACIFIC LLC)

Plaintiffs,)

v.)

NCR CORPORATION)
INTERNATIONAL PAPER CO.,)
and WEYERHAEUSER CO.)

Defendants.)

Civil Action No. 1:11-CV-00483

Judge Robert J. Jonker

**DEFENDANT NCR CORPORATION’S ANSWER AND AFFIRMATIVE DEFENSES TO
DEFENDANT WEYERHAEUSER COMPANY’S CROSS-CLAIM**

Defendant NCR Corporation (“NCR”), by and through its undersigned counsel, for its Answer and Affirmative Defenses to Weyerhaeuser Company’s (“Weyerhaeuser”) Cross-Claim, states as follows:

COUNTERCLAIM AND CROSS-CLAIM

In the event that Weyerhaeuser is held liable for more than its fair share of response costs, Weyerhaeuser is entitled to contribution or other recovery under CERCLA against the other parties adjudged liable in this action.

ANSWER: Denied.

AFFIRMATIVE DEFENSES

1. Weyerhaeuser’s allegations fail to state a claim upon which relief can be granted.

2. Weyerhaeuser's claims are barred in whole or in part because NCR did not arrange for disposal or treatment of any hazardous substances, within the meaning of CERCLA, at the Allied Paper Inc./Portage Creek/Kalamazoo River Superfund Site (the "Kalamazoo Site").

3. The discharge, release and/or disposal of hazardous substances at the Kalamazoo Site, and any resulting harms, were caused by the acts or omissions of Weyerhaeuser and/or other third parties or entities unrelated to NCR, and NCR has no liability for such damages under CERCLA.

4. The discharge, release and/or disposal of hazardous substances at the Kalamazoo Site, and any resulting harms, were the result of Weyerhaeuser's own acts or omissions, over which NCR had no control and continues to have no control.

5. Weyerhaeuser's claims are barred in whole or in part insofar as Weyerhaeuser seeks to recover costs that are not reasonable or necessary response costs or are otherwise inconsistent with the National Contingency Plan.

6. Weyerhaeuser's claims are barred in whole or in part to the extent that Weyerhaeuser seeks to recover costs and expenses other than response costs, as the term is defined in CERCLA.

7. Weyerhaeuser's claims are barred in whole or in part insofar as Weyerhaeuser has failed to meet all conditions precedent to recovery.

8. Weyerhaeuser's claims are barred in whole or in part by the applicable statutes of limitations.

9. Weyerhaeuser's claims are barred in whole or in part by the doctrine of estoppel.
10. Weyerhaeuser's claims, to the extent they are equitable in nature, are barred in whole or in part by the doctrine of laches.
11. Weyerhaeuser's claims, to the extent they are equitable in nature, are barred by the doctrine of unclean hands.
12. NCR asserts and relies upon any and all defenses available under CERCLA.
13. NCR reserves its right to assert any and all additional defenses that become known or available during the course of litigation.

PRAYER FOR RELIEF

WHEREFORE, having fully answered and stated affirmative defenses to Defendant Weyerhaeuser's Cross-Claim, Defendant NCR respectfully requests that this Court enter judgment as follows:

- (1) Entering judgment in favor of NCR and against Weyerhaeuser, dismissing Weyerhaeuser's Cross-Claim in its entirety with prejudice; and
- (2) Granting NCR such other relief as the Court deems just, proper or necessary.

Respectfully submitted,

NCR CORPORATION

/s/ Kathleen L. Roach

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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2011, I served Defendant NCR Corporation's Answer and Affirmative Defenses to Defendant Weyerhaeuser Corporation's Cross-Claim on the parties via the ECF system, which will send notification by operation of the Court's electronic systems.

/s/ Eric Ha

Eric Ha